Addendum to the Certified Final Environmental Impact Report

GREGORY CANYON LANDFILL

San Diego County
Department of Environmental Health
1255 Imperial Avenue
San Diego, CA 92112

May 2010

State Clearinghouse No. **1995061007**
San Diego County Department of Environmental Health
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County of San Diego

JACK MILLER
DIRECTOR

SOLID WASTE LOCAL ENFORCEMENT AGENCY
9325 HAZARD WAY SAN DIEGO, CA 92123
(858) 694-2888 FAX (858) 495-5004
1-800-253-9933
www.sdcdeh.org

ELIZABETH POZZEBON
ASSISTANT DIRECTOR

DECISION ON
GREGORY CANYON LANDFILL
2010 ADDENDUM TO THE CERTIFIED FINAL ENVIRONMENTAL IMPACT REPORT

As the Director of the San Diego County Solid Waste Local Enforcement Agency (LEA) in the Department of Environmental Health, I am the decision maker for the Addendum to the Certified Revised Final Environmental Impact Report (2010 Addendum) and the Revised Final Environmental Impact Report (RFEIR) for the proposed Gregory Canyon Landfill. On May 7, 2010, I took the following actions:

1. I reviewed and considered the information in the 2010 Addendum. I also considered the information in the staff report provided by the County of San Diego Solid Waste Local Enforcement Agency dated April 28, 2010.

2. I determined that there were no substantial changes proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the RFEIR on the Gregory Canyon Landfill; and determined that there is no "new information of substantial importance" as that term is used in California Environmental Quality Act (CEQA) Guidelines Section 15162(a)(3).

3. I adopted the 2010 Addendum to the RFEIR on the Gregory Canyon Landfill.

4. I adopted the finding that circulation of the 2010 Addendum is not required. (Attachment A)

5. I adopted the statement regarding the custodian of the record of proceedings. (Attachment B)

Jack Miller, DIRECTOR
Local Enforcement Agency
Date: 5/7/10

Attachment A

CIRCULATION OF THE 2010 ADDENDUM TO THE REVISED FINAL EIR IS NOT REQUIRED

Finding: Circulation of the 2010 Addendum to the Revised Final EIR is not required. CEQA and the CEQA Guidelines establish the type of environmental documentation that is required when changes to a project occur or new information arises after an EIR is certified. Section 15164(a) states that:

> *"The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."*

In order to give a degree of finality to EIR documentation, Section 15162 of the CEQA Guidelines requires that a Subsequent EIR need only be prepared if:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:
    a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration,
    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR,
    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
    d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The 2010 Addendum was prepared to update information available on the scope of federal and state jurisdiction over waters on the landfill site, and to analyze any impacts arising from the updated information. The 2010 Addendum considered whether any significant environmental impacts, which were not identified in the 2003 Draft EIR or the RFEIR, would result or whether previously identified significant impacts would be substantially more severe in light of that evaluation. It determined that none of the conditions requiring preparation of a Subsequent or Supplemental EIR have occurred. Thus, pursuant to CEQA, the 2010 Addendum is the appropriate document to address the potential impacts from the updated jurisdiction information.

Rationale: The 2010 Addendum adds no new significant information to the Revised Final EIR that demonstrates that a new significant environmental impact would result. No new significant information was added to the Revised Final EIR by the 2010 Addendum that demonstrates that a substantial increase in severity of an environmental impact would result. No new significant information was added to the Revised Final EIR by the 2010 Addendum that demonstrates that there are feasible project alternatives or mitigation measures considerably different from others previously analyzed, or that there are alternatives or mitigation measures which would lessen significant impacts of the proposed landfill. Finally, the Revised Final EIR was not so fundamentally inadequate without this addendum that meaningful public review and comment on the Revised Final EIR were precluded.

The 2003 EIR and the Revised Partial Draft EIR were circulated for public review and comment, and a public hearing was held to take testimony on the Revised Partial Draft EIR and the proposed landfill. Thus, there has been substantial public review of the Revised Final EIR for the proposed landfill. No further public review of the Revised Final EIR, or the 2010 Addendum, is required.

Attachment B

STATEMENT OF LOCATION AND CUSTODIAN OF DOCUMENTS OR OTHER MATERIALS THAT CONSTITUTE THE RECORD OF PROCEEDINGS

Project Name: Gregory Canyon Landfill

Reference Case Numbers: Environmental Record (ER) 98-02-025; SCH # 1995061007, Addendum #3

CEQA requires the lead agency (in this case, the County of San Diego Department of Environmental Health) to specify the location and custodian of the documents or other material that constitute the record of proceedings upon which its decision is based. (Public Resources Code section 21081.6(a)(2).) It is the purpose of this statement to satisfy this requirement.

Location of Documents and Other Materials That Constitute the Record of Proceedings:

County of San Diego, Department of Environmental Health
Solid Waste Local Enforcement Agency
9325 Hazard Way
San Diego, California 92123

Custodian:

County of San Diego, Department of Environmental Health
Solid Waste Local Enforcement Agency
9325 Hazard Way
San Diego, California 92123

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ADDENDUM TO THE CERTIFIED
FINAL ENVIRONMENTAL IMPACT REPORT

1.0 BACKGROUND

The Gregory Canyon Landfill Project (Project) consists of the construction, operation, and closure of the proposed Gregory Canyon Landfill in northern San Diego County on State Route 76 (SR 76), about three miles east of Interstate-15 (I-15) and two miles southwest of the Pala community.

The environmental effects of the Project have previously been the subject of an Environmental Impact Report, dated December 2002 which was certified by the San Diego County Department of Environmental Health (DEH) on February 3, 2003 (2003 Draft EIR), a Revised Final Environmental Impact Report dated March 2007, which was certified by DEH on May 31, 2007 (RFEIR). [SCH#1995061007]. Two separate addendums to the Certified Final Environmental Impact Report were approved by DEH on August 8, 2008 (2008 Addendum) and January 7, 2010 (2009 Addendum).[1] The 2003 Draft EIR was the subject of a writ of mandate issued by the San Diego County Superior Court on January 20, 2006. DEH prepared the RFEIR to address the matters noted by the Court in the writ of mandate. Following preparation of the 2008 Addendum, the writ of mandate was discharged on November 20, 2008. The 2009 Addendum included an updated discussion on water demand and available sources of water supply for the landfill, and analyzed environmental impacts from the use of those sources.

The analysis of impacts to biological resources in Section 4.9 of the 2003 Draft EIR and Section 4.9 of the RFEIR included a discussion of waters on the landfill site subject to the jurisdiction of the U.S. Army Corps of Engineers (ACOE) as well as state agencies, the San Diego Regional Water Quality Control Board (SDRWQCB) and the California Department of Fish and Game (CDFG). However, the delineation of both federal and state jurisdictional waters has changed over the course of time, as the result from evolving regulations, policies and agency

[1] *To provide for consistency of terminology with prior environmental review documents for the Project, the December 2002 Environmental Impact Report is referred to as the 2003 Draft EIR and the Revised Final Environmental Impact Report is referred to as the RFEIR. The RFEIR, which incorporated the 2003 Draft EIR, and as updated by the 2008 Addendum and the 2009 Addendum, comprises the full environmental review for the Project. The EIR was certified by the Department of Environmental Health on May 31, 2007, the 2008 Addendum was adopted on August 8, 2008, and the 2009 Addendum was adopted on January 7, 2010.*

practices, the process of obtaining required permits from SDRWQCB and CDFG, and most recently the new approved jurisdictional determination issued by ACOE on January 13, 2010.[2]

The purpose of this Addendum is to respond to these events by providing the most up to date information available on the scope of federal and state jurisdiction over waters on the landfill site, and to analyze any impacts arising from this updated information. This Addendum has been prepared with consideration of the 2003 Draft EIR, the RFEIR, the 2008 Addendum, and the 2009 Addendum. These documents, and all others cited herein, are incorporated by reference pursuant to the California Environmental Quality Act (CEQA) Guidelines, 14 California Code Regulations, Section 15150, and are available for review during regular business hours at the offices of the County Department of Environmental Health at 9325 Hazard Way, San Diego.

2.0 CEQA AUTHORITY FOR THE ADDENDUM ANALYSIS DOCUMENT

CEQA and the CEQA Guidelines establish the type of environmental documentation that is required when changes to a project occur or new information arises after an EIR is certified. Section 15164(a) states that:

> *"The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred."*

In order to give a degree of finality to EIR documentation, Section 15162 of the CEQA Guidelines requires that a Subsequent EIR need only be prepared if:

> *1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
>
> *2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR due*

[2] *ACOE's January 13, 2010 approved jurisdictional determination was utilized for purposes of this 2010 Addendum.*

to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:

a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration,

b. Significant effects previously examined will be substantially more severe than shown in the previous EIR,

c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or

d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

In the event these conditions arise, but only minor additions or changes to the previous EIR are necessary, a Supplemental EIR may be appropriate, pursuant to CEQA Guidelines Section 15163.

This Addendum (2010 Addendum) updates the scope of federal and state jurisdiction over waters located on the landfill site, and impacts arising from that updated information. The 2010 Addendum considers whether any significant environmental impacts, which were not identified in the 2003 Draft EIR, the RFEIR, the 2008 Addendum, or the 2009 Addendum, would result or whether previously identified significant impacts would be substantially more severe in light of that evaluation. In addition, this 2010 Addendum considers whether updated information related to extent of federal or state jurisdiction over waters is of substantial importance in the assessment of impacts and mitigation measures.

The 2010 Addendum concludes, based on this evaluation, that no significant environmental impacts would result, or that previously identified significant impacts would be substantially more severe, beyond those identified in the 2003 Draft EIR, the RFEIR, the 2008 Addendum, or the 2009 Addendum. The 2010 Addendum also concludes that the updated

jurisdictional information does not affect the assessment of impact or require the implementation of any additional mitigation measures. For these reasons, it has been determined herein that none of the conditions requiring preparation of a Subsequent or Supplemental EIR have occurred. Thus, pursuant to CEQA, this 2010 Addendum is the appropriate document to update the scope of federal and state jurisdiction over waters located on the landfill site, and impacts arising from that updated information.

3.0 SCOPE OF FEDERAL AND STATE JURISDICTION

Information regarding the scope of state and federal jurisdiction and impacts arising from that jurisdiction were first addressed in Sections 4.9.1.2 and 4.9.3.1 of the 2003 Draft EIR. In particular, Section 4.9.3.1 of the 2003 Draft EIR included a discussion of "Areas Subject to ACOE and CDFG Jurisdiction," and Table 4.9-5 on page 5 in that document indicated the scope of jurisdiction stated in acreages. However, no impacts were identified or mitigations proposed that related specifically to the scope of jurisdiction because "[t]hese impacts overlap with significant vegetation community impacts for which mitigation is proposed."[3] This portion of the 2003 Draft EIR was not challenged in the writ proceeding and not overturned by the court.

The information contained in the 2003 Draft EIR was updated in the RFEIR, based on a proposed jurisdictional delineation submitted by Gregory Canyon to ACOE, and adopted by ACOE in October 2004.[4]

Based on 1) the new jurisdictional determination issued by ACOE on January 13, 2010, 2) the scope of jurisdiction set forth in tentative Waste Discharge Requirements issued by SDRWQCB on April 9, 2009, 3) comments submitted to SDRWQCB by Gregory Canyon related to the extent of state jurisdiction, and 4) and oral communications with staff at CDFG in connection with issuance of a streambed alteration agreement, Table 4.9-5 of the 2003 Draft EIR is updated, and a replacement Table 4.9-5 is provided below.[5] This updated table would support future permit actions by various agencies, including SDRWQCB and CDFG.

[3] *2003 Draft EIR, p. 4.9-31.*

[4] *RFEIR, p. 4.9-3.*

[5] *ACOE's January 13, 2010 approved jurisdictional determination was used to update Table 4.9-5.*

Table 4.9-5

Potential Impacts To Jurisdictional Areas
for the Gregory Canyon Landfill Project
(Values rounded to the higher one-tenth of an acre)

U.S. Army Corps of Engineers - Clean Water Act Section 404

Waters of the U.S.*	Permanent (acres)	Temporary (acres)	Total (acres)
San Luis Rey River Bridge	<0.1**	0.7	<0.8
Gregory Canyon	<0.5	0	<0.5
Total	<0.6	0.7	<1.3

*Acreages are subject to final confirmation from the agency
**<0.1 acres of Federal wetland

Regional Water Quality Control Board - Clean Water Act Section 401 and Porter Cologne

Waters of the State (Subject to Section 401 Certification)*	Permanent (acres)	Temporary (acres)	Total (acres)
San Luis Rey River Bridge	<0.1**	0.7	<0.8
Gregory Canyon	<0.5	0	<0.5
Total	<0.6	0.7	<1.3

*Acreages are subject to final confirmation from the agencies
**<0.1 acres of Federal wetland

Riparian Vegetation and Other Habitats Subject to Porter Cologne*	Acres
Vegetated Surface Waters (Southern Willow Scrub)	0.4
Vegetated Surface Waters (Disturbed Southern Willow Scrub)	0.4
Vegetated Surface Waters (Cotton-Willow Riparian Forest)	0.2
Open Channel**	0.2
Total	1.2

*Overlaps with Waters subject to 401 Certification; Acreages are subject to final confirmation from the agency
**Sandy habitat with sparse herbaceous cover

Total Waters of the State (Exclusive of overlaps between presented Federal waters and riparian habitats)	Acres
Total	1.6

Table 4.9-5 (Cont'd)

Potential Impacts To Jurisdictional Areas for the Gregory Canyon Landfill Project (Values rounded to the higher one-tenth of an acre)

California Department of Fish and Game - Streambed Alteration Agreement

Riparian Vegetation and Other Habitats	Acres
Vegetated Surface Waters (Southern Willow Scrub)	0.4
Vegetated Surface Waters (Disturbed Southern Willow Scrub)	0.4
Vegetated Surface Waters (Cotton-Willow Riparian Forest)	0.2
Open Channel*	0.2
CDFG Gregory Canyon Streambed**	<0.5***
Total	<1.7

*Sandy habitat with sparse herbaceous cover

**Includes Gregory Canyon main thalweg plus other CDFG streambed

***Acreages are subject to final confirmation from the agency

Source: Bill Magdych Associates, 2010

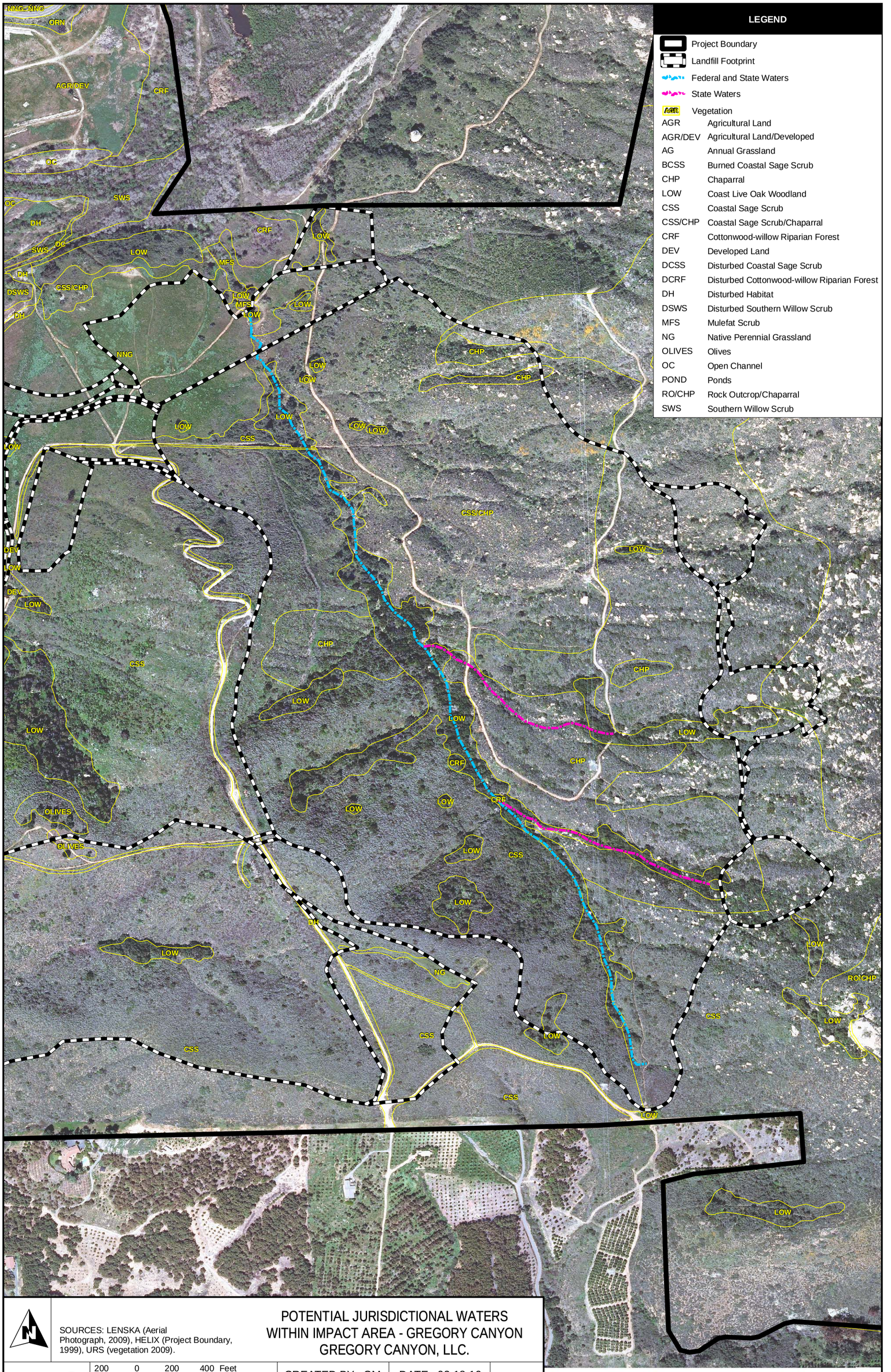
4.0 POTENTIAL IMPACTS

The primary value from information related to the scope of federal and state jurisdiction would be for purposes of obtaining additional permits or approvals required to carry out the project. A listing of required permits and approvals was included in Table 3-6 of the 2003 Draft EIR.[6] Various permits from ACOE, SDRWQCB and CDFG were identified in Table 3-6 of the 2003 Draft EIR.

However, the existence of jurisdiction, and the associated need for a permit, is distinct from the activity requiring a permit or approval which may create a significant impact. Whether or not a water on the landfill site is jurisdictional or not, the activity that may create a significant impact is the disturbance of that portion of the landfill property.

Potential environmental impacts to jurisdictional waters from landfill construction, operation or closure would overlap with potential environmental impacts to vegetation communities at the same locations on the landfill site. This overlap is depicted in Figures 1 and 2, on pages 7 and 8 which overlay the areas of jurisdiction, for the Gregory Canyon watershed and bridge, respectively, onto the vegetation impacts map included as Figure 4.9-3 of the RFEIR.

[6] *2003 Draft EIR, Table 3-6, pp. 3-76 - 3-77.*



SOURCES: LENSKA (Aerial Photograph, 2009), HELIX (Project Boundary, 1999), URS (vegetation 2009).

POTENTIAL JURISDICTIONAL WATERS WITHIN IMPACT AREA - GREGORY CANYON
GREGORY CANYON, LLC.

URS

200 0 200 400 Feet

SCALE: 1" = 500' (1:6,000)
SCALE CORRECT WHEN PRINTED AT 11X17

CREATED BY: CM	DATE: 03-18-10	FIG. NO: 1
PM: MM	PROJ. NO: 27654025.00020	

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LEGEND

- Bridge Grading Area and Riparian Habitat Restoration
- Clearing Zone
- Bridge Footprint
- Bridge Footprint Boundary/Work Area Boundary
- Bridge Piers
- AGR Vegetation

AGR	Agricultural Land
AGR/DEV	Agricultural Land/Developed
AG	Annual Grassland
BCSS	Burned Coastal Sage Scrub
CHP	Chaparral
LOW	Coast Live Oak Woodland
CSS	Coastal Sage Scrub
CSS/CHP	Coastal Sage Scrub/Chaparral
CRF	Cottonwood-willow Riparian Forest
DEV	Developed Land
DCSS	Disturbed Coastal Sage Scrub
DCRF	Disturbed Cottonwood-willow Riparian Forest
DH	Disturbed Habitat
DSWS	Disturbed Southern Willow Scrub
MFS	Mulefat Scrub
NG	Native Perennial Grassland
OLIVES	Olives
OC	Open Channel
POND	Ponds
RO/CHP	Rock Outcrop/Chaparral
SWS	Southern Willow Scrub

SOURCES: LENSKA (Aerial Photograph, 2009), HELIX (Project Boundary, 1999), URS (vegetation 2009).

POTENTIAL JURISDICTIONAL WATERS WITHIN IMPACT AREA - BRIDGE
GREGORY CANYON, LLC.

URS

75 0 75 150 Feet

SCALE: 1" = 150' (1:1,800)
SCALE CORRECT WHEN PRINTED AT 11X17

CREATED BY: CM	DATE: 03-15-10	FIG. NO: 2
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Section 4.9 of the 2003 Draft EIR specifically recognized this overlap, by stating that any impacts arising from the existence of jurisdiction overlap impacts to vegetation communities for which mitigation is proposed.[7]

Likewise, potential environmental impacts to jurisdictional waters caused by landfill construction, operation or closure would overlap with potential environmental impacts to sensitive species at the same locations on the landfill site. These potential impacts were discussed in Section 4.9 of the 2003 Draft EIR and Section 4.9 of the RFEIR.[8] Figure 4.9-4b of the 2003 Draft EIR depicted the locations of sensitive species impacts in the Gregory Canyon watershed and bridge area.[9] In addition, the 2003 Draft EIR and RFEIR described potential indirect impacts from construction, operation and closure of the landfill, in addition to direct impacts arising from habitat loss.[10]

Based on the analysis of potential impacts to vegetation communities and sensitive species, both the 2003 Draft EIR and the RFEIR concluded that with implementation of mitigation measures, impacts to biological resources would be less than significant.[11] This portion of the 2003 Draft EIR was challenged in the writ proceeding but was not overturned by the court.

Since any change in the scope of federal or state jurisdiction will not affect the acreage of land that will be disturbed in connection with the project, the updated jurisdictional information does not disclose a new significant impact or increase the severity of a previously-disclosed significant impact to biological resources.

In making its determination of the extent of federal jurisdiction, ACOE made a number of factual findings. However, it is important to note that ACOE's jurisdictional determination was based on the current undeveloped condition of the landfill site, and was not based on a review of impacts from the activities proposed as part of the project.

First, ACOE found that the main stem in the Gregory Canyon watershed exhibited characteristics of an ordinary high water mark, including a defined bed and bank, sand and gravel deposits, silt and sediment transport and sorting, debris, racking and scour. In other

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[7] *2003 Draft EIR, p. 4.9-31.*

[8] *2003 Draft EIR, p. 4.9-37 - 4.9-46; RFEIR, pp. 4.9-4 - 4.9-9.*

[9] *2003 Draft EIR, p. 4.9-36.*

[10] *2003 Draft EIR, p. 4.9-37 -4.9-46; RFEIR, p. 4.9-4 - 4.9-9.*

[11] *2003 Draft EIR, p. 4.9-70; RFEIR, p. 4.9-27.*

words, ACOE found that the main stem exhibited characteristics of a surface water, in the context of federal law and regulations.

The existence of this surface water within the Gregory Canyon watershed was disclosed in Section 4.4 of the 2003 Draft EIR, and its location is depicted in Exhibit 4.4-1.[12] The 2003 Draft EIR indicated that the water "that drains Gregory Canyon is considered ephemeral (i.e. flows briefly in direct response to precipitation in the vicinity). Surface flow occurs during moderate to large storm events."[13] This is consistent with the findings made by ACOE.

Section 4.4 of the 2003 RFEIR then discusses regulatory requirements related to storm water discharges, and potential impacts to surface water from construction, operation and closure of the landfill.[14] In making this analysis, long-term impacts were estimated by calculating peak flows from the Gregory Canyon watershed into the San Luis Rey River basin using the Rational Method Computer program, under both pre- and post-development conditions.[15] This was the same computer program utilized by ACOE to estimate flows.[16] The drainage control features that would be implemented in the Gregory Canyon area to control storm water discharges were also described in Section 4.4 of the 2003 Draft EIR.[17] Based on this analysis, the 2003 Draft EIR concluded that "potential hydrology and water quality impacts that could result from the proposed project would be reduced to a less than significant level through project design features, implementation of BMP's [Best Management Practices], and compliance with applicable permits."[18] This portion of the 2003 Draft EIR was challenged in the writ proceeding but was not overturned by the court.[19]

Next, ACOE found a "more than an insubstantial or speculative effect" between the Gregory Canyon watershed and the estuary of the San Luis Rey River, located 21.2 miles downstream.[20] The primary grounds for this conclusion were the potential for flow from the

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[12] *2003 Draft EIR, p. 4.4-2 - 4.4-3.*

[13] *2003 Draft EIR, p. 4.4-2.*

[14] *2003 Draft EIR, p. 4.4-6 - 4.4-15.*

[15] *2003 Draft EIR, p. 4.4-11.*

[16] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 4.*

[17] *2003 Draft EIR, p. 4.4-13.*

[18] *2003 Draft EIR, p. 4.4-17.*

[19] *In connection with subsequent environmental permitting, the storm water drainage control system was enhanced to meet more recent regulatory requirements. URS Corporation, Gregory Canyon Stormwater Management Plan, December 14, 2007, revised September 22, 2008 (SWMP), JTD, Appendix I-1. See also URS Corporation, Gregory Canyon Stormwater Pollution Prevention Plan, March 10, 2008, JTD, Appendix D.*

[20] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 9.*

main stem to reach this location, potential pollutant transport, and the presence of threatened or endangered species in the vicinity of the main stem and in the San Luis Rey River corridor.[21]

ACOE found that there was a potential for surface flows from the Gregory Canyon watershed to reach the downstream estuary. Section 4.4 of the 2003 Draft EIR disclosed the fact of surface water drainage from the Gregory Canyon area into the San Luis Rey River basin, estimated peak flows, and provided for storm water control features based on those estimates.[22] As noted above, potential impacts to hydrology and water quality were reduced to a level of less than significant with the incorporation of project design features. The conclusions reached in Section 4.4 of the 2003 Draft EIR that potential water quality impacts would be less than significant would also directly apply to an analysis of potential impacts to the estuary 21.2 miles downstream of the landfill site.

ACOE found a potential for pollutant discharge from the Gregory Canyon area to the estuary from historic grazing and, more generally, historic agricultural activities, although there was no direct evidence of such activities within the Gregory Canyon watershed.[23] Section 4.4 of the 2003 Draft EIR disclosed that the "project site includes existing agricultural, dairy and cattle grazing uses," that modern agriculture was based on the extensive use of fertilizers, pesticides and herbicides, and that that improper use of these chemicals could lead to serious degradation of surface water quality.[24] In addition, and consistent with the findings of ACOE, Figure 3 of the Draft Wetland Mitigation and Habitat Enhancement Plan included in the 2003 Draft EIR depicted these areas of historic agricultural activities as being outside of the Gregory Canyon watershed.[25]

Section 4.4 of the 2003 Draft EIR indicated that the overall objective of the construction of the storm water program is to reduce or eliminate the discharge of pollutants into the storm water conveyance system, which could be accomplished by either removing pollutants or pollution prevention.[26] With respect to the landfill itself, the 2003 Draft EIR indicated that pollution prevention is the preferred method.[27] However, with respect to these historic agricultural-based contaminants, project development would result in removal of any pollutants remaining from the historic agricultural uses. Within the Gregory Canyon watershed, excavation

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[21] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 9.*

[22] *JTD, p. C.2-16 - C.2-23.*

[23] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 6.*

[24] *2003 Draft EIR, p. 4.4-8.*

[25] *2003 Draft EIR, Appendix L, Draft Wetland Mitigation and Habitat Enhancement Plan, p. 1- p. 2 and Figure 3.*

[26] *2003 Draft EIR, p. 4.4-10.*

[27] *2003 Draft EIR, p. 4.4-10.*

of surface soils would remove any remaining pollutants. Once excavated, these soils would be placed either within the landfill footprint or the borrow/stockpile areas, both of which would be equipped with drainage controls.[28] Manure from historic grazing would be removed as part of initial landfill construction, "greatly improving water quality in the river."[29] The conclusions reached in Section 4.4 of the 2003 Draft EIR that potential water quality impacts would be less than significant would also directly apply to an analysis of potential impacts to the estuary 21.2 miles downstream of the landfill site.[30]

Finally, ACOE noted the presence of threatened or endangered species in the vicinity of the Gregory Canyon watershed and the San Luis Rey River.[31] Section 4.9 of the 2003 Draft EIR and Section 4.9 of the RFEIR likewise disclosed the presence or potential presence of southwestern willow flycatcher, least Bell's vireo, coastal California gnatcatcher and arroyo toad, and provided for mitigation of any direct or indirect impacts to these species.[32] Section 4.9 of both the 2003 Draft EIR and the RFEIR concluded that with implementation of mitigation measures, impacts to biological resources, including these identified species, would be less than significant.[33] This portion of the 2003 Draft EIR and RFEIR was challenged in the writ proceeding but was not overturned by the court.

Of the threatened or endangered species identified by ACOE, one was not directly addressed in the 2003 Draft EIR and RFEIR was the Southern California steelhead trout. This was because steelhead trout were not observed on the landfill site as part of surveys performed in connection with the preparation of the Final Biological Technical Report and the 2003 Draft EIR.[34] Follow up surveys were performed on December 10 and 13, 2009, and also determined that steelhead trout were not present on the landfill site.[35]

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[28] *2003 Draft EIR, p. 4.4-13 - 4.4-14, p. 4.9-38.*

[29] *2003 Draft EIR, p. 4.9-48; 2003 Draft EIR, Appendix L, Draft Wetland Mitigation and Habitat Enhancement Plan, p. 13.*

[30] *See also, 2003 Draft EIR, p. 4.9-48 – 4.9-49, which discusses the prevention of indirect impacts to sensitive species through implementation of the surface water control measures described in Section 4.4 of the 2003 Draft EIR.*

[31] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 7.*

[32] *2003 Draft EIR, p. 4.9-37 – p. 4.9-70; RFEIR, p. 4.9-4 – 4.9-27.*

[33] *2003 Draft EIR, p. 4.9-70; RFEIR, p. 4.9-27*

[34] *Helix Environmental Planning, Inc., Final Biological Technical Report June 17, 2002, Appendix B; 2003 Draft EIR Appendix L.*

[35] *Bill Magdych Associates, Summary of Steelhead Surveys in the San Luis Rey River for Gregory Canyon in December 2009, March 16, 2010.*

ACOE noted the presence or potential presence of steelhead trout downstream of the landfill site in portions of the San Luis Rey River located to the west of I-5 in Oceanside, approximately 20 miles downstream of the landfill site.[36] DFG has noted the presence of steelhead trout upstream of the landfill site in September 2005.[37] With respect to steelhead trout located downstream of the landfill site, or passing through the landfill site, ACOE found a "nexus" because discharges from the Gregory Canyon watershed to the San Luis Rey River in the current undeveloped condition would have a beneficial effect, since those discharges would be "less turbid and thus more conducive to steelhead habitat requirements."[38]

In two conditions to the Streambed Alteration Agreement issued in December 2009, CDFG indicated that adult steelhead trout are expected to be present at periods of high flow during the months of January through April as they pass through to upstream spawning areas, and that steelhead smolt are likely to be present at periods of receding flow during the months of March to July as they pass through back to the ocean.[39]

However, the actual presence of steelhead trout on the landfill site has not been documented. The statements made by CDFG represent at most a potential presence. Moreover, the potential presence of steelhead would be of limited duration. Steelhead habitat for permanent residence or breeding does not exist on site, as water temperatures in the San Luis Rey River are too high.[40]

Potential impacts to steelhead trout from the construction, operation and closure of the landfill arise from alteration of existing drainage courses and the quality of the surface water discharges. As a result, those potential impacts would overlap with potential hydrology and water quality impacts discussed in Section 4.4 of the 2003 Draft EIR which the 2003 Draft EIR concludes would be less than significant. To the extent that impacts to hydrology and water quality are less than significant, that same conclusion would directly apply to an analysis of potential impacts to steelhead trout, and more generally the estuary. To illustrate this, the significance criteria to analyze impacts to hydrology and water quality in the 2003 Draft EIR considered whether the landfill would:

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[36] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 7.*

[37] *Personal communication, Mary Larson, CDFG fisheries biologist, April 5-7, 2010.*

[38] *ACOE, Memorandum for Record, Significant Nexus Determination, December 14, 2009, p. 8.*

[39] *CDFG, Agreement Regarding Proposed Stream of Lake Alternation #1600-2005-0642-R5, December 9, 2009 (SAA), p. 7. The SAA relates to the construction of the landfill access road bridge across the San Luis Rey River. See also HPBU, p. 3-4.*

[40] *URS Corporation, Evaluation of Hydrogeomorphology and Potential Beneficial Uses at Gregory Canyon (HPBU), December 14, 2007, p. 2-9, p. 3-4.*

- Substantially degrade water quality or violate any water quality standard or waste discharge requirements

- Substantially alter the existing drainage pattern of the site or area, including through the alteration of a course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site

- Substantially alter the existing drainage pattern of the site or area, including through the alteration of a course of a stream or river, in a manner which would result in flooding on- or off-site

In connection with actions taken to comply with Mitigation Measure MM 4.4C5G, Gregory Canyon has submitted various reports and plans to SDRWQCB. These include a Stormwater Management Plan for Gregory Canyon Landfill (SWMP), the Gregory Canyon Stormwater Pollution Prevention Plan (SWPPP), the Habitat Resource and Restoration Plan for Gregory Canyon Landfill Property (HRRMP), and the Evaluation of Hydrogeomorphology and Potential Beneficial Uses at Gregory Canyon (HPBU).[41] The SWMP and SWPPP provide substantial additional detail regarding both construction-related and permanent stormwater drainage control features. Permanent stormwater control features include sedimentation basins, perimeter channels, drainage swales, structural media filtration, and infiltration areas.[42]

The SWMP also includes a hydromodification evaluation for the landfill.[43] These standards do not prohibit all changes in flows, but instead prohibit changes in flows that would have adverse impacts on beneficial uses.[44] The SWMP indicated that drainage control features were selected to "mimic the existing canyon flows and volumes tributary to the San Luis Rey River to provide both water quality treatment benefits and to minimize the potential for hydromodification impacts"[45] The landfill project as designed would not increase flow rates or velocities into the river. Following implementation of the measures described in the SWMP, the HPBU concluded that "water quality in the San Luis Rey River . . . will be protected by best

[41] *URS Corporation, Stormwater Management Plan for Gregory Canyon Landfill, December 14, 2007, revised September 22, 2008 (SWMP), JTD, Appendix I-1; URS Corporation, Gregory Canyon Stormwater Pollution Prevention Plan, March 10, 2008 (SWPPP), JTD, Appendix D; URS Corporation, Habitat Resource and Restoration Plan for Gregory Canyon Landfill Property, October 7, 2008; URS Corporation, Evaluation of Hydrogeomorphology and Potential Beneficial Uses at Gregory Canyon (HPBU), December 14, 2007.*

[42] *See SWMP, Attachment D for the location of these features. See SWPPP. p. 5-17 – 5-18 for a description of permanent drainage control features.*

[43] *SWMP, p. 10-1.*

[44] *SWMP, p. 10-1.*

[45] *SWMP, p. 10-1.*

management practices for treatment of stormwater runoff and no adverse effect on beneficial uses in the river will result."[46]

Section 4.16 of the 2003 Draft EIR discussed potential adverse impacts from litter, which could include litter falling into the San Luis Rey River.[47] With implementation of project design features, including litter control measures described in Section 3 of the 2003 Draft EIR, this impact was determined to be less than significant.[48] In connection with actions taken to comply with Mitigation Measure MM 4.4C5G, Gregory Canyon has proposed the construction of a 12-foot high fence along the bridge to capture wind-blown trash and minimize the amount of wind blown trash entering the river.[49] Finally, the HRRMP includes a long-term management activity related to steelhead for "inspecting the river channel for un-natural obstructions that would prevent the trout from potentially moving upstream through the river channel on site," that would include removal of large items for trash or similar debris.[50]

The SWMP, SWPPP, HRRMP and Trash BMP's memorandum provide additional support for the conclusion of no significant impact to hydrology or water quality reached in Section 4.4 of the 2003 Draft EIR, which would also directly apply to an analysis of potential impacts to steelhead, leading to a conclusion of no significant impact. No additional project design features or mitigation measures beyond those included in Sections 4.4 and 4.16 of the 2003 Draft EIR are proposed or necessary to avoid a significant impact to steelhead.

Based on the above discussion, none of the key factual grounds cited by ACOE to support its updated jurisdictional determination disclose a new significant impact or increase the severity of a previously-disclosed significant impact to hydrology, water quality, or biological resources. And for the same reasons, recent information related to extent of federal or state jurisdiction over waters is not of substantial importance in the assessment of impacts and mitigation measures.

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[46] *HPBU, p. 3-1; see also HPBU, p. 3-3 – 3-4.*

[47] *2003 Draft EIR, p. 4.16-14 – 4.16.15*

[48] *2003 Draft EIR, p. 3-58 – 3-59, p. 4.16-18.*

[49] *URS Corporation, Memorandum to RWQCB, Trash BMP's for Bridge – Gregory Canyon Landfill, November 12, 2009.*

[50] *HRRMP, p. 10-3.*

5.0 PROJECT MITIGATION MEASURES AND PROJECT DESIGN FEATURES

Because any impacts arising from the existence of jurisdiction overlap impacts to vegetation communities, sensitive species, hydrology and water quality for which mitigation is already proposed and incorporated into the project to render these impacts less than significant, no refinements to the mitigation measures, and no new mitigation measures or project design features are required based on the information presented in this 2010 Addendum.

6.0 CONCLUSION

This 2010 Addendum presents updated information regarding the scope of federal and state jurisdiction over waters on the landfill site, as well as any impacts arising from this updated information.

Based on the information presented in this 2010 Addendum, no significant environmental impacts that were not identified in the 2003 Draft EIR, the RFEIR, the 2008 Addendum, or the 2009 Addendum would result, and no previously identified significant impacts would be substantially more severe in light of this analysis. It has been determined herein that none of the conditions requiring preparation of a Subsequent or Supplemental EIR have occurred. Thus, pursuant to CEQA, this 2010 Addendum is the appropriate document to provide updated information on the scope of federal and state jurisdiction over waters on the landfill site.

7.0 REFERENCES

Bill Magdych Associates, Summary of Steelhead Surveys in the San Luis Rey River for Gregory Canyon in December 2009, March 16, 2010

Bryan A. Stirrat & Associates, a Tetra Tech company, Joint Technical Document, November 2004, revised March 2010

California Department of Fish & Game, Agreement Regarding Proposed Stream or Lake Alternation #1600-2005-0642-R5, December 9, 2009

URS Corporation, Evaluation of Hydrogeomorphology and Potential Beneficial Uses at Gregory Canyon (HPBU), December 14, 2007

URS Corporation, Habitat Resource and Restoration Plan for Gregory Canyon Landfill Property, October 7, 2008

URS Corporation, Memorandum to RWQCB, Trash BMP's for Bridge – Gregory Canyon Landfill, November 12, 2009